

## Public Health Service, HHS

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exceptionally qualified for the performance of duties requiring highly specialized training or experience may be recommended for appointment in the Reserve Corps in any grade up to and including the director grade without regard to the additional years of postgraduate training or experience prescribed for grades above the assistant grade.

### §21.56 Reappointment.

An officer of the Reserve Corps, after being examined and found qualified for reappointment, may be recommended for reappointment to the same grade in the event that his commission expires before he becomes eligible for reappointment to a higher grade, or may be recommended for reappointment to a higher grade to be effective on or after the date on which he meets the qualifications prescribed in this subpart for original appointment to such higher grade.

### §21.57 Examination for reappointment.

The examination of an officer of the Reserve Corps on active duty who is being considered for reappointment in such corps shall consist of a review and evaluation of his record with the Service. The examination of an officer of the Reserve Corps on inactive duty who is being considered for reappointment in such corps shall consist of (a) a review and evaluation of his record with the Service while on active duty, if any, and (b) the record of his training or experience during the period of his inactive duty preceding such examination. In the discretion of the Surgeon General the examination for reappointment of an officer, whether on active or inactive duty, may include an oral interview.

### §21.58 Physical examination for reappointment.

Every officer of the Reserve Corps being considered for reappointment shall undergo such physical examination as the Surgeon General may direct. An officer on active duty may be recommended for reappointment unless he is found to have a physical disability which is determined to render him physically unfit to perform the du-

ties of his office under section 402 of the Career Compensation Act of 1949, as amended. An officer may be recommended for promotion only if he meets the physical qualifications for original appointment. If an officer is not available to be physically examined because of circumstances which make it impracticable for the Service to require such examination, he may, in the discretion of the Surgeon General, be reappointed without such examination, but shall be examined as soon thereafter as practicable and his physical qualification or disqualification for continued or future active service shall be determined on the same basis as if the physical examination had been given prior to reappointment.

## Subpart C—Involuntary Child and Spousal Support Allotments

AUTHORITY: 37 U.S.C. 101, 15 U.S.C. 1673, 42 U.S.C. 665.

SOURCE: 49 FR 7235, Feb. 24, 1984, unless otherwise noted.

### §21.70 Purpose.

Under references 37 U.S.C. 101, 15 U.S.C. 1673, and 42 U.S.C. 665, this subpart provides implementing policies governing involuntary child or child and spousal support allotments, assigns responsibilities, and prescribes procedures.

### §21.71 Applicability and scope.

(a) This subpart applies to officers in the Public Health Service Commissioned Corps. The term "Public Health Service," hereinafter shall be referred to as Service.

(b) Its provisions pertain to officers of the Service under a call or order to active duty for a period of six months or more.

### §21.72 Definitions.

(a) *Child support.* Periodic payments for the support and maintenance of a child or children, subject to and in accordance with State or local law. This includes, but is not limited to payments to provide for health care, education, recreation, clothing, or to meet

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other specific needs of such a child or children.

(b) *Spousal support.* Periodic payments for the support and maintenance of a spouse or former spouse in accordance with State or local law. It includes, but is not limited to, separate maintenance, alimony pendente lite, and maintenance. Spousal support does not include any payment for transfer of property or its value by an individual to his or her spouse or former spouse in compliance with any community property settlement, equitable distribution of property, or other division of property between spouse or former spouse.

(c) *Notice.* A court order, letter, or similar documentation issued by an authorized person, which provides notification that an officer has failed to make periodic support payments under a support order.

(d) *Support order.* Any order providing for child or child and spousal support issued by a court of competent jurisdiction or by administrative procedures established under State law that affords substantially due process and is subject to judicial review. A court of competent jurisdiction includes Indian tribal courts within any State, territory, or possession of the United States and the District of Columbia.

(e) *Authorized person.* (1) Any agent or attorney of any State having in effect a plan approved under part D of title IV of the Social Security Act (42 U.S.C. 651-665), who has the duty or authority to seek recovery of any amounts owed as child or child and spousal support (including, when authorized under a State plan, any official of a political subdivision); and (2) the court which has authority to issue an order against the officer for the support and maintenance of a child, or any agent of such court.

(f) *Active duty.* Full-time duty in the Service, including full-time training duty.

(g) *Legal officer.* Shall be an officer of the Service or employee of the Department who is a lawyer and who has substantial knowledge of the regulations, policies, and procedures relating to the implementation of section 172 of Pub. L. 97-248.

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### § 21.73 Policy.

(a) It is the policy of the Department of Health and Human Services to withhold allotments from pay and allowances of commissioned officers on active duty in the Service to make involuntary allotments from pay and allowances as payment of child, or child and spousal, support payments when the officer has failed to make periodic payments under a support order in a total amount equal to the support payable for two months or longer. Failure to make such payments shall be established by notice from an authorized person to the designated official of the Department. Such notice shall specify the name and address of the payee to whom the allotment is payable. The amount of the allotment shall be the amount necessary to comply with the support order including amounts for arrearages as well as for current support. However the amount of the allotment, when added to any other amounts withheld from the officer's pay pursuant to a support order, shall not exceed the limits for involuntary allotments from pay as prescribed in section 303 (b) and (c) of the Consumer Credit Protection Act, 15 U.S.C. 1673. An allotment under this Subpart shall be adjusted or discontinued upon notice from any authorized person.

(b) Notwithstanding the above, no action shall be taken to withhold an allotment from the pay and allowances of any officer until such officer has had an opportunity to consult with a legal officer of the Department to discuss the legal and other factors involved with respect to the officer's support obligation and his or her failure to make payments. The Department shall exercise continuing good faith efforts to arrange such a consultation, but must begin to withhold allotments on the first end-of-month payday after 30 days have elapsed since notice of an opportunity to consult was sent to the officer.

### § 21.74 Responsibilities.

(a) The General Counsel, Office of the Secretary, Department of Health and Human Services, shall be the Designated Official for the Department